IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 212/2005

1. Mr. Farooq Ahmed Shaikh,
   r/o. Zuari Complex, Baina, Vasco.

2. Mr. Abdul Razak,
   s/o. Magarchi, r/o. Zuari Complex,
   Baina, Vasco.

3. Mr. Badre Alam Khan (Mulana/Priest),
   r/o. Taiba Masjid, Baina, Vasco,

4. Muqtaq Ahmed,
   r/o. Zuari Complex, Baina, Vasco.

5. Dastigir Bepari,
   r/o. Kantem, Baina,
   Vasco da Gama.

6. Hamza Khan,
   r/o. Sansmollem, Baina,
   Vasco da Gama. ..... Petitioners.

V/s.

1. State of Goa,
   through the Chief Secretary,
   with office at New Secretariat,
   Alto Porvorim, Goa.

2. The Deputy Collector/S.D.M.
   Mormugao, Vasco-da-Gama.

3. Mr. Azim Khan,
   r/o. Patrong, Baina,
   Vasco da Gama.

4. Mr. Saifulla Khan,
   s/o. Bashir Khan,
   r/o. Mangor Hill,
   Vasco da Gama.

5. Abdul Masjid Khan,
r/o. H.No. 285, Islampur,
Baina, Vasco da Gama.

6. Mr. Shaikh Idris,
s/o. Shaikh Abdul,
r/o. H.No.44, Behind Baina Church,
Baina.

7. Mr. Bashir Khan
r/o. Mangor Hill,
Vasco Police Station.

8. Mr. Shaikh Imran,
s/o. Shaikh Dawood, Vice,
r/o. Islampur, Baina,
Vasco da Gama. ..... Respondents.

Mr. A.D. Bhobe, Advocate for the petitioners.

Mr. S.S. Kantak, Advocate General with Ms. Rakhee Chodankar, Addl. Govt. Advocate for respondents No.1 and 2.

Mr. S.N. Kerkar with Mr. V.D. Pangam, Advocates for respondents No.3 to 8.

CORAM : S.S. PARKAR, J.

DATE : 29th June, 2005.

ORAL ORDER :

Heard both sides. The main grievance of the petitioners is that before passing the impugned order by the Sub-Divisional Magistrate on 9.6.2005, the petitioners were not heard. After reading the impugned Order, it appears that the S.D.M. has not made it clear as to who shall call the meeting of the new Committee to be formed as per law

in force. Obviously, there are two parties, one in the name of Tanzim Ahle Sunnat and the other is Intizamia Committee of Sunni Masjid-e-Taiba who claims right to manage the affairs of the mosque. It appears that Party No.2 i.e. Intizamia Committee of Sunni Masjid-e-Taiba has been registered as a Society under the Societies Registration Act and has been managing the affairs of the mosque since the year 2003 and consequently paying the salary of the priest by name Mr. Badre Alam Khan, until he was replaced in April, 2005, by appointment of another priest. Though Tanzim Ahle Sunnat claims to be a trust, admittedly, it is not registered.

2. The impugned order does not clarify as to who will take steps to form the new committee, whether the registered Society of Intizamia Committee or the Tanzim Ahle Sunnat i.e. Party No.1. Of course, it would be in the interest of the management of the mosque that the new committee is formed from amongst the members of both the rival groups, provided they agree to forget their past differences and are interested in the proper management of the affairs of the mosque. In that event, probably, the lower Authority will have to depute certain person to call for the meeting for the purpose of formation of a new committee, after hearing both the parties. Since the petitioners claim that they were not heard before passing the impugned Order, which is not disputed on behalf of Party No.2, and as suggested by the learned Advocate General,

it would be desirable to treat the impugned order as an ex parte order, though the impugned order mentions that both the parties were heard.

3. In the aforesaid circumstances, I see no reason to interfere in the impugned order, except to direct the lower Authority to treat the impugned order as an ex parte order and pass the final orders, after hearing both sides. Both the rival groups are entitled to file their say and produce documents in support of their say. All questions are left open.

In view of the apprehended breach of peace, the lower Authority is directed to dispose of the matter expeditiously and as early as possible. The writ petition shall stand disposed of accordingly.

S.S. PARKAR, J.

ssm.